



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/409,566	09/30/1999	JOHN CHRISTOPHER BARROTT	AUR-014-PA	5556

7590

12/20/2002

KILLWORTH GOTTMAN HAGAN SCHAEFF LLP  
ONE DAYTON CENTRE, SUITE 500  
ONE SOUTH MAIN STREET  
DAYTON, OH 454022023

EXAMINER

BARTUSKA, FRANCIS JOHN

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/409,566

Applicant(s)

BARROTT ET AL.

Examiner

F. J. BARTUSKA

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 24-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

Claims 24-26, 28-33, 35-44, 46, 48-52, 56-58, 61, 64 and 65 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the “progress of science and the useful arts” and therefore are found to be non-statutory subject matter. For a process, the recited process must somehow apply, involve, use or advance the technological arts.

In the present case, the only recitation of applying, involving, using or advancing the technological arts is the recitation of computer implementation in the claim preamble.

As to technological arts recited in the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble.

In the present case there is no further recitation in the body of the claims of the computer to perform any of the steps of the method and no other recitation that breathes life and meaning into the preamble.

Therefore, claims 24-26, 28-33, 35-44, 46, 48-52, 56-58, 61, 64 and 65 fail to pass the first prong of the test for statutory subject matter.

### ***Claim Rejections - 35 USC § 112***

2. Claims 24-33, 35-44 and 46-65 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point

out and distinctly claim the subject matter which applicant regards as the invention. These claims are indefinite because they only imply that some of the steps of the method are computer implemented. The preamble of the claims call for a computer-implemented method but the body of these claims do not identify which steps or even if any steps are computer implemented. It is not clear if these claims would be infringed if only all the steps of the method were computer-implemented or if only one or some of the steps were computer-implemented and the rest of the steps were performed manually.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 66 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jacobs, of record. Jacobs discloses a computer 14, an input device 32, a display 30, memory 15 and a communication device

36 for providing products and services. If the applicants' system is adapted to permit a user to electronically plan a funeral, so also is the system of Jacobs.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 24-28, 34, 36-42, 44, 45, 47, 48, 50 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Tafirenyika publication, of record. Every funeral requires collecting biographical information, selecting a time and place, selecting a coffin or cremation and selecting a funeral home or church or graveside service and selecting someone to organize and perform the services. The Tafirenyika publication teaches that some of the arrangements for a funeral, such as selecting a casket, can be computer-implemented. It would have been obvious to one of ordinary skill in the art in view of the showing and teaching of the Tafirenyika publication to use a computer to implement any of the well-known arrangements of a routine funeral.

8. Claims 29-33, 35, 43, 46, 49, 51-60, 62 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Tafirenyika publication as applied to claim 24 above in further view of Yagasaki, of record. The Tafirenyika publication does not disclose a presentation guide page, a response page and price summaries. Yagasaki discloses a presentation guide page 21, a response page 22 and an order management unit for listing selected products and their prices and ordering them. It would

have been obvious to one of ordinary skill in the art to provide the computer-implemented system of the Tafirenyika publication with the display pages and order management system of Yagasaki to efficiently search for and order products or services.

9. Claims 64 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Tafirenyika publication as applied to claim 48 above in view of Tavor et al, of record. The Tafirenyika publication does not disclose a multimedia presentation. Tavor et al show a method of shopping over the Internet that includes multimedia presentations to make the session enjoyable for the customer, see col. 8, lines 51-53 and the abstract. It would have been obvious to one of ordinary skill in the art in view of the showing and teaching of Tavor et al to provide the system of the Tafirenyika publication with a multimedia presentation to make the session more enjoyable for the customer.

### ***Response to Arguments***

The applicants' remarks have been considered but have not been found persuasive in view of the new grounds of rejection.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. J. BARTUSKA whose telephone number is 703-308-1111. The examiner can normally be reached on **MONDAY-FRIDAY (ALTERNATE FRIDAYS OFF)**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT P. OLSZEWSKI can be reached on 703-308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

fjb  
December 18, 2002

  
F. J. BARTUSKA  
PRIMARY EXAMINER 12/18/02